

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

GEORGE ASSAD, directly on behalf of)
himself and all others similarly situated, and)
derivatively on behalf of GO ACQUISITION)
CORP.,)

Plaintiff,)

v.)

GO ACQUISITION CORP.,)

Nominal Defendant,)

v.)

GO ACQUISITION FOUNDER LLC.,)
NOAM GOTTESMAN, M. GREGORY)
O'HARA, JEREMY ISAACS, GILBERT)
AHYE, AND NORMA CORIO,)

Defendants.)

**CASE NO. 1:21-cv-07076 (JPC)(JLC)
JURY TRIAL DEMANDED**

NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiff respectfully requests that the Court consider the attached, recently-issued Order of the United States Securities and Exchange Commission (SEC) Instituting Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change to Adopt Listing Standards for Subscription Warrants Issued by a Company Organized Solely for the Purpose of Identifying an Acquisition Target as supplemental authority in support of his opposition to Defendants' motion to dismiss Plaintiff's complaint. The Order is attached hereto as Exhibit A. In the Order, the SEC addresses a proposed rule change for the New York Stock Exchange that would permit listing subscription warrants for special purpose acquisition rights companies

(SPARCs). The Order institutes proceedings to determine whether to disapprove the proposed rule change. Among the reasons for instituting proceedings is that:

[I]t is unclear under the Exchange's proposal whether the [SPARC] would meet the definition of investment company under the Investment Company Act of 1940 ("1940 Act"). If so, the company may need to register under the 1940 Act, which would require a new listing rule, proposed by the Exchange and approved by the Commission, that contemplates the company's status under the 1940 Act.

Order, at 13.

The Order indicates that the SEC is presently considering the application of the Investment Company Act to acquisition companies. Like a special purpose acquisition company (SPAC), the proposed SPARC would be a shell company with no business that would list its securities on an exchange while seeking to complete a business combination. The proposed SPARC would not hold government securities, but even still the Commission has expressed concerns about the proposed SPARC's status under the Investment Company Act. This Order therefore expresses the Commission's current concerns on a matter closely related to this case. Accordingly, Plaintiff submits that the Order is relevant supplemental authority.

Plaintiff requested on October 25, 2021, in the opposition to Defendants' motion to dismiss, that the Court ask the SEC to provide its views on the application of the Investment Company Act in this case. *See* Pltf.'s Opp. to Defs.' Mot. to Dismiss, Docket No. 55, at 1-2. The Order illustrates that the SEC is presently considering a similar question, and the Commission's views would be valuable for the Court in addressing Defendants' motion. Plaintiff thus renews his earlier request that the Court ask the SEC to provide its views on the application of the Investment Company Act in this case.

Plaintiff asked Defendants whether they join in this request. Defendants stated that they oppose Plaintiff's request that the Court seek the SEC's views in this case.

Dated: December 22, 2021
New York, New York

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